

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

June 14, 2010

Lyle W. Cayce  
Clerk

---

No. 09-60434

Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JAMES LOUIS POLK,

Defendant-Appellant

---

Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:94-CR-95-1

---

Before HIGGINBOTHAM, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

James Louis Polk, federal prisoner # 10155-042, has filed a motion to proceed in forma pauperis (IFP) to appeal the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence. By moving to proceed IFP, Polk is challenging the district court's certification decision that his appeal was not taken in good faith because it is frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

---

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We review the district court's denial of a Section 3582(c)(2) motion *de novo*. *United States v. Dublin*, 572 F.3d 235, 237 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009). Because Polk's guidelines imprisonment range was not derived from the quantity of crack cocaine involved in the offense but rather from his career offender status, the district court was correct in concluding that a sentencing reduction was not permitted. *See* § 3582(c)(2); *United States v. Anderson*, 591 F.3d 789, 790-91 (5th Cir. 2009).

Polk has failed to show that he will raise a nonfrivolous issue on appeal. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). His motion for IFP is denied and his appeal is dismissed as frivolous. *See* 5TH CIR. R. 42.2.

IFP DENIED; APPEAL DISMISSED